

TRI-WEEKLY KENTUCKY YEOMAN.

VOL. 4.]

TRI-WEEKLY KENTUCKY YEOMAN.
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JOHN H. STEPHENS,
Plain and Fancy Painter
Paper Hanger, &c.,
FRANKFORT, KY.
All upholsteries at Luckett & Hampton's Book
Shop Store, will be promptly attended to.

MARCH 17, 1853.

EVANS & CO'S
Boot, Shoe & Book Store,

HUMPHREY EVANS & E. H. TAYLOR, Jr., have purchased the stock of Books, Shoes, Boots, &c., &c., of Luckett & Hampton, the business having been conducted by H. Evans at the old stand under the style of

EVANS & CO.

Having sold our stock of goods to H. Evans & Co, we cheerfully recommend them to our former

friends. LUCKETT & HAMPTON

MARSHAL DRIED PEACHES;

100 DRIED PEACHES;

5 BAGS OF DRIED APPLES;

1 BAG OF DRIED PLUMS for sale by

E. L. SAMUEL, Oct. 13.

New Cabinet Wareroom and
Manufactury.

JOHN D. RAKE

REPECTABLY inform friends that he now locates in the new Second Street, and nearly opposite the old one. If they will call to see his old customers, and others who may want Cabinet work, Connelly will be pleased to show them his cabinet, and intends to keep a good stock of Furniture on hand, to which he respectfully invites the attention of all wishing to purchase.

COFFINS.

Made to order at all hours—eight day-promptly. He has a large store, with which he will attend calls, at any time night or day.

Aug. 29, 1853.—S. J. W. TAYLOR.

THOS. S. PAGE,

J. B. WATSON.

Having purposed the right to make and sell the use of Franklin and Scott counties, the above Loom (calculated exclusively for family use) I must respectfully invite the public generally to call and view the Machine we have now in operation at the prison, where it can be seen at any time.

N. CRAIG,

Agent and Keeper Kentucky Penitentiary.

August 12, 1853.—H.

GARNS! CIGARS!

25.00 lbs. 1000 lbs. 1000 lbs.

1000 lbs. 10

Is it Buzzing?

The strangest of all the strange news we have received since the breaking out of the war in Europe is that Austria has become the ostensible arbitrator between the Western powers and Russia, and that through her influence the Czar has been induced to evacuate the principalities; and, that Austria herself is to take possession, and is already occupying them. It excites surprise and distrust in our minds to read that a power whose existence was not long since a matter of doubt, should now herself hold the scales and step in between the very ones whose slightest breath but a short time ago would have destroyed her nationality forever. It is a something that we don't understand, for it must certainly be humiliating to the pride of England and France, after having taken so unequivocally the destinies of that portion of the world in hand, to suffer such a power as Austria to decide it. To us it looks like juggling, and we are led to believe that it means a good deal more than it would seem.

From the commencement of the war, it was believed by all thinking men and those who are conversant with Austrian history, that she must inevitably become the ally and fast friend of Russia. Her inclination, her sympathies, her interests would all lead her to adopt that course—having the same hostility to freedom in all its shapes and forms that is in the breast of Russia; and, in all past times, having been hand in hand with her whenever Liberty was to be stifled or the ends and aims of Despotism advanced. Being always the readiest to 'pitch in' whenever a quarrel would spring up between the two principalities, or revolution break out in any of the countries of Europe, we have all along thought it strange that she should be so tardy in her action, and never come to a definite conclusion upon which side she would throw her strength.

From present indications it would seem that she is determined to maintain her character for perfidy and insincerity. It looks now as though she had been playing a double game, a game calculated to further the designs of Russia, and promote her own interests. If this be so it is certainly a strong one, and may turn the scale in favor of Russia, for what could better advance the objects of the two, if they really be in league, than the occupation of the principalities by Austria. By this she would be in the very best position to defend herself and assist Russia, for if Nicholas should prove unsuccessful in his operation in the Crimea, what could be better than for him to fall back into the arms of his friends in the principalities, and what better position could Austria hold to assist Russia in the peninsula which is to be, by the withdrawal of her forces from the principalities, the theater of war.

We may be mistaken in our conclusions, but nevertheless we shall hold them until something turns up to convince us of the contrary.

A most profound sensation has been created in Italy by the report that the image of the Virgin Mary, suspended in the church of the Minor Conventuals at Civita Vecchia, has been winking at some of the devotees who were kneeling before her shrine. Just at three minutes after 4 o'clock on the evening of the 26th of April, the lifeless image winked at a boy; becoming frightened he ran and gave the alarm, and forthwith all good Catholics hastened to see a repetition of the wondrous miracle. By particular request, the image winked again, and then the crowd became intensely excited.

It is truly surprising and mortifying to think that human beings in the glare of the noon of the 19th century, will continue to be so gullied by the sleight of hand performance of some designing priest. It will continue to be thus however until intelligence diffuses its radiant glow among the masses, and the rule of priesthood is usurped by that of reason.

The office of the House Telegraph Line, in this city, has been removed from its old location on Main street, is a neat and commodious room on St. Clair street, next door to Swigert & Herndon's establishment. This line is rapidly growing into public favor, and the handsome pliz, of the operator Charley Clarke is calculated to make it still more popular.

Mine host of the Mansion House, actually surpassed himself yesterday, by the manner in which he entered for the appetites of those who are under his care. Every luxury of the season was spread bountifully on the table, and a person gazing at the interesting process of preparation which was progressing, would have thought that the boarders were all persons of appreciation. Shade of Apicus! Command me to a dinner gotten up by Luckett.

The Mayville Express, edited in part by Mr. Stanton, the distinguished Democratic member of Congress from the Mayville district, speaks out in relation to the Post-office Department and its head as every paper should. Mr. Stanton has opportunities for seeing a great deal of the Postmaster General, and he evidently thinks of him. Certainly the Postmaster General is a poor creature, and, if all or, half, or even a quarter of the Democratic organs were as many in the utterance of their opinions as the Mayville Express, the Department would very soon be filled by a better man.—*Lou. Jour.*

AN ADMINISTRATIVE ARRANGEMENT.—Among other means of retrenchment which the government is resorting to, is a diminution of mail services. The service between Nashville and Memphis, and particularly over several Kentucky routes, has been reduced one-half, to the inconvenience and vexation of the community. The diminution of service between this city and Louisville is an absolute outrage upon the community, and one which should not be quietly tolerated. Our Western mail is second in importance to none, and we shall henceforth receive it only tri-weekly. Our mail communication with Fleming and Montgomery, has also been made tri-weekly much to the detriment of the business and convenience of the community. Now we say without hesitation, that these routes were paying, and that well, the expense of daily mails, and we can see neither sense nor justice in the diminution of service.

Mr. Postmaster General Campbell doubtless wishes to signalize his administration by making the Post-office Department pay its own expenses. The stupidity of such an attempt, particularly if the end be accomplished by the means indicated in letting the contracts, can add nothing enviable to his notoriety.—*Mayville Express.*

Time was, when Mr. Stanton occupied a most enviable position in the Democratic ranks; his talents, and his indefatigable exertions in behalf of the party to which he belonged, gained him the hearty friendship and confidence of his fellow democrats, but his unjustifiable attacks upon the administration, caused as they were by misfortune and disappointed ambition, have deprived him of the respect he once enjoyed, and consigned his hopes of political preferment to the tomb of the Capulets. He was extremely anxious, and in fact expected that upon the inauguration of the new administration, he would receive the appointment of Post Master General. He was disappointed in his ambitious aspirations, and hence his impulsive assault upon Postmaster Pierce and his Cabinet. "Fever ambition that caused the angels to fall," and Mr. Stanton will discoverer long, if he has not already, that by pursuing his present course, he is covering himself with disgrace, and meriting the reproaches, which a disgraced constituency are hatching on his head.

SHE'S THE SORT.—As an evidence of what the girls can do when they have a mind, a Cincinnati press states that three years ago a poor orphan girl applied and was admitted to set type for that paper.—She worked two years, during which time she earned besides her board, about two hundred dollars, and, evading herself of the facilities which the printing office afforded, acquired a good education. She is now an editor of a popular paper, and is engaged to be married to one of the smartest lawyers in the State of Ohio.—Such a girl is bound to shine and eclipse tens of thousands who are educated in the lap of luxury and taught all the accomplishments of the boarding school. Such a wife will be a jewel to her husband, an ornament to society, an honor to her sex and her country.

IF YOU WANT TO GAIN A WOMAN'S AFFECTION.—One squeeze of the hand or press of the lips, is worth more than all the speeches you can make from 8 to 11. Calico is an institution of touch, and not of logic. Order a sample and judge.

Sensible talk that. We tried it on! a few weeks since, and have felt as tall as a full-fledged Shanghai with high heel boots since.

MEXICO.—The last intelligence received by the New York Herald, from Mexico, is of a very startling nature, and indicates the speedy downfall of the empire of the Napoleon of the South. The Revolutionists under Gen. Alvarez are gaining ground rapidly; the standard of revolt has been raised successfully in Toluquilla, the Aztecan State of Oaxaca, Rio Verde, and other prominent places in Mexico.

By the timely arrival of Capt. Dornin with the U. S. Ship Port Royal at the port of Mazatlan, thirty American citizens were rescued from being shot by order of the Governor, of that place. It appears that these persons had taken passage in the Chilian bark Palatina, for Lower California under the supposition that our government had purchased that country. While in the gulf of Lower California, on their way from San Francisco to Guaymas they were attacked by a Mexican cutter, and taken to Mazatlan on the suspicion that they were filibusters. As soon as Capt. Dornin heard of their arrest, he demanded either their release or a fair trial, and threatened to bombard the town if his demands were refused. After a few days' demurring the Governor sent the prisoners on board the Portsmouth, from whence they were transferred to the revenue cutter W. H. Marcy then in port, whose Commander kindly volunteered to take them to San Francisco. Capt. Dornin's decisive and gallant course is worthy of the greatest approbation and will doubtless teach Mexican officials a lesson.

MASTER AND SLAVE.—At the Spring term of the Circuit Court of Sumner county, Hon. Alexander B. Cuthbert presiding, Richard M. Eskridge, a planter of Sumner county, was indicted for *misdemeanor*, in discharging a leg of a negro woman slave in his possession.

The defendant was intoxicated, and about to whip the slave; she resisted with no use to her hand; he seized his gun and shot her in the leg just below the knee, rendering amputation necessary. The Court charged the jury that if they believed from the evidence, that this defendant intended, unlawfully and maliciously, to dislodge the slave, he was guilty of the charge. That the master had an absolute dominion over the slave, and to authorize a resort to such extreme force, he must show that he acted in self-defense, or that the slave was in a state of rebellion, and the means used were absolutely necessary to reduce her to subjection.

After a retirement of some five or ten minutes, the jury returned a verdict of guilty.

The defendant was sentenced by the Court to 11 years imprisonment in the Penitentiary. We know nothing of the defendant, and therefore have no personal feelings in the matter, but we do rejoice that so signal an example has been made, that righteous retribution has been visited on one of the class of brutal slave holders, equal to the class is, whose bad actions have done so much to bring disgrace upon the South. We commend this verdict to the consideration of Mrs. Stowe and her associates.—South Alabama.

Our thanks to Hon. Ben. Edward Gray for public documents.

Court of Appeals.

Reported for the Tri-Weekly Kentucky Yeoman, by James Monroe, Attorney at law, Frankfort, Ky.

BAYANT v. PROCTOR—JUDGMENT, Bayle—

In October 1849 J. W. Bryant, A. Bryant and Ben. Proctor, entered into an article of agreement in substance as follows:

J. M. Bryant furnished to A. Bryant and Proctor \$1,000 with which to proceed to California and use industry diligence, &c., in digging for gold, &c., and in making money, otherwise. The parties are to have the use of this capital for three years, at the end of which time the profits are to be equally divided, after taking out the capital. This embraces as much of the substance of the article of agreement as is necessary to comprehend the opinion of the court in this case.

A. Bryant and Proctor each executed his note for one third part of the capital. In February, 1850 the two last named persons left Danville, Kentucky, for California; on their arrival in New Orleans, A. Bryant abandoned the enterprise. Proctor proceeded to California, and having accumulated about twenty-five thousand dollars, returned home in November, 1852, and before the expiration of the three years mentioned in the agreement.

Proctor, at the time he entered into the above agreement was considered insolvent, and J. M. Bryant was his largest creditor.

During Proctor's absence, J. M. Bryant instituted a suit in chancery against him, seeking the collection of two notes on him, one being the note for the one third part of the \$1,000 capital advanced. The object was to attach the property of Bryant's on the ground, that the defendant, whose place of residence was in this State, had been absent therefore so long that one term of the circuit court had intervened, and that the ordinary process of the law could not be executed upon him. Other suits were likewise brought by him against Proctor in his absence.

On the 8th September 1852, whilst these suits were still pending, Mrs. Proctor, acting as the agent of her absent husband, made a settlement and compromise with J. M. Bryant, of all demands and claims of any description, which she recited that for the additional sum of \$788.49, a hen was reserved on a negro man Simeon, and when said sum was paid, it would be in full discharge of all claims and demands of every description which he had against Proctor.

After Proctor's return from California he paid this additional sum, and it was accepted by J. M. Bryant without any objection, and without any complaint that the settlement and compromise, was unjust or had been fraudulently obtained.

J. M. Bryant subsequently instituted this action to set aside the contract of compromise on the ground that Mrs. Proctor had as her husband agent, procured it by making false representations of the extent of the profits of her husband in California, of his condition and circumstances, and of his intention to remain in California. He alleged that the arrangement which he made with Bryant was entered into in ignorance of his rights, induced by these misrepresentations of Mrs. Proctor, and that he only received about \$500, in satisfaction of his part of the profits of the California adventure.

The court below dismissed the plaintiff's petition, and he appealed to the court.

Judge Simeson delivered the opinion of the court.

The plaintiff relied upon fraud alone in his pleadings to set aside the compromise, but it is now contended that he has a clear right to recover the one third part of the amount realized by Proctor in California, and that the payment of a less sum, cannot be relied on, either as a presumption, or as an accord and satisfaction to defeat his right.

It is certainly, say the court, the well settled law, that the payment of a less sum cannot in general be pleaded in bar of an action for a larger sum due, nor can it be relied upon as an accord and satisfaction, because, to make it valid as such, the thing received for the demand, must be something to which the creditor was not before entitled, and not merely a part of the thing, to the whole of which he had a right at the time of the payment. But this rule of law, the court continue, has no application to this case, 1st because at the time the compromise was made, the three years for which the partnership was to continue, had not expired. Bryant had a right to use the fund until that time, and its use, might have resulted in the total loss thereto—until that time the interest of the partners was uncertain. The rule of law referred to, applies to a certain demand due, and not to one prospective and contingent.

2d. J. W. Bryant's rights under the contract were to say the least, doubtful, and as such were proper matters of compromise. And, as a partnership contract, where a court of equity would carry into effect, as one of the partners abandoned the enterprise, the others were under no obligation to abide by it, unless they chose to do so. It might be contended that J. W. Bryant, by the suit which he brought in June 1851, to cause the collection of a part of the capital advanced, and the reasons assigned in his bill, enable him to maintain the suit manifested a determination not abide by the agreement of partnership; in as much as it had been abandoned by all the parties, for unless he assumed this ground, he had no right to demand the payment of any part of the Capital advanced to Proctor. Although one of the partners could dissolve the contract without the consent of all, yet as one failed to comply it was not obligatory on the others without their assent.

The Great Pacific Railroad.—We have received an invitation to attend the celebration of the great Pacific Railroad Company, at Marshall, Texas, on the 4th of July. Hon. R. J. Walker and many other distinguished individuals are expected to be present. From present appearance it is evident that the gentlemen connected with this great enterprise are taking hold of the matter in real earnest. Four hundred cars will be at work on the road between Marshall and the State line by the 1st of July, and the force will be increased as rapidly as possible, so as to complete the first sixty-five miles in eighteen months. The first ground was broken on the 17th of June.—N. O. Delta.

SUNTERRENEOUS STREAMS.—A man, named Morgan, while digging a well on his farm, near Hudson, Illinois, had sunk a shaft down 53 feet when he struck a rock, and in trying to loosen it, it fell with a quick plunge into a subterranean stream of water, about four feet in depth, which flowed with great velocity. Mr. Morgan had barely time to seize the rope which hangs down the shaft, to save himself from falling into the turbid waters. A similar phenomenon is said to exist in Battier Township, Jackson county, in the same State, the water from which finds a vent on the side of a bluff, and is of sufficient force to turn heavy machinery.

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Mr. Proctor, or by any statements made to him by her in regard to the matter.

But, the court say, if Bryant did enter into the compromise under a misconception of the true state of case, he confirmed the compromise after Proctor's return, and after being fully apprised of the amount realized by the California adventure, by receiving from him, without objection, the balance of the sum, which according to the terms of the compromise, he was to receive in satisfaction of the claim against him.

It is however urged that the sum that was received by him from Proctor, was due to him, independent of the compromise, and that the act of receiving it cannot operate as a confirmation of that agreement—but the court say that an examination of the debt due him, exclusive of the amount he obtained by the compromise, will show that the whole debt had been fully discharged by the payment made by Mrs. Proctor. The court here proceeded to show the calculation.

The opinion is chiefly a discussion of the facts, which the court concludes by saying that under all the circumstances, and in view of all the facts proved in the cause, and for the reasons herein expressed, they are clearly of opinion that the plaintiff was not entitled to any relief, and that the judgment of the court below, by which his petition was dismissed, is correct. Judgment affirmed.

ARREST OF A FUGITIVE SLAVE.—The officers of the Alvin Adams, on her last upward trip, arrested a fugitive, or runaway slave, on the boat at Madison, bringing him to this city and lodged him safely and quietly in Buckner Castle.

It appears that the slave in question runaway in company with another, from Jas. H. Page, of Bowling Green, and had managed to reach Washington Ind., together, when this fellow left his partner and went to Madison in the full expectation of taking a boat at Madison for Cincinnati, and once in Cincinnati, he thought he would be perfectly safe. The rascal, however, did not reach Cincinnati, and got into the hands of those who brought him back home.

"Tis a pity they didn't let the trifling fellow go to Cincinnati, and get a taste of the misnamed thing called freedom, as a week's freedom among the abolitionists, there would sicken him for life, and he would beg hard enough to get home again to his master.—*Lou. Courier.*

ANCOOTE OF PARSON BROWNLOW.—We once heard an anecdote told of the parson which it is true, clearly shows that what he thinks is right, he will endeavor to maintain. It is said that he was once notified by one of the greatest prelates and braggadocios in Tennessee, that if he attempted to preach again at a certain place, he would be taken from the stage and publicly whipt in the presence of his congregation. The person present knowing the man to be a desperate fellow, advised him not to preach. They were requested not to give themselves any trouble as he would attend to the master himself.

Sunday morning came and so did the parson at the appointed time and took his place in the pulpit. Upon looking around he saw the fellow who had threatened him with a number of his friends, occupying a position near the pulpit. He began the usual ceremonies by opening the Bible which lay upon the desk—the he removed from his right coat pocket a revolver, and placed it at the right of the word of truth—another to his left—he then drew from his bosom a large bowie-knife, and laid it across the leaves to prevent the wind from turning them. This was an arrangement which loaded certain results.—His opponents were so perfectly amazed with the weapon, that they concluded that it was best not to interfere with him—and it is said that no set of men ever got away a scoring as did some of his congregation upon that occasion.

WILLIAM WALKER.—When the desolate ex-president was the editor of the Crescent in this city, his principal employment was abusing and denouncing filibustering. He was the special friend of the Spanish consul on an occasion when filibustering feeling had made its first explosion in this city. He had an intense horror of the whole system. He was then a nice, studious, scholarly young man, full of bile and bitterness, ready with the pen, and evidently ambitious of cutting a figure in the world editorial.

He was always esteemed an honorable, high minded and honest man. His faults are excessive vanity, a rather overbearing temper, and an utter want of practical sagacity and worldly tact. His talents are much above the ordinary; his imaginative and reasoning faculties are strongly developed. His personal deportment was remarkably quiet, reserved, and rather grave. A small, graceful figure, a pale freckled face, and eyes of light green, a drawing, slow-measured tone of voice, and a bearing by no means grand or impressive, made up the physique of this redoubtable gentleman, whom the fees and imaginations of the Mexican have converted into a second Attila. His venerable father and estimable family now reside in Nashville.—N. O. Delta.

SUNTERRENEOUS STREAMS.—A man, named Morgan, while digging a well on his farm, near Hudson, Illinois, had sunk a shaft down 53 feet when he struck a rock, and in trying to loosen it, it fell with a quick plunge into a subterranean stream of water, about four feet in depth, which flowed with great velocity. Mr. Morgan had barely time to seize the rope which hangs down the shaft, to save himself from falling into the turbid waters. A similar phenomenon is said to exist in Battier Township, Jackson county, in the same State, the water from which finds a vent on the side of a bluff, and is of sufficient force to turn heavy machinery.

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NOW'S PETTICOATS.—Among the new fashions, is a flouncing petticoat. It is filled with air and is coming into very general use.

According to the inventor, one of these petticoats will stand out and occupy the room of a dozen girls upon the old fashion principle. It is true that when a lady dresses, to get into a carriage, the look would be likely to stick to the door. To obviate this, she must, at the moment of embarking turn a screw hidden in some fold in her dress, and let out the air. The avolent folds at once collapse and shrink into an extremely small compass. When necessary it is easy for the lady to blow herself up.

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